

IN RE: PETITION FOR SPECIAL HEARING & ZONING VARIANCE
S/S Smith Ave., 25 ft. E of c/l Edenvale Road
2201 Smith Avenue
3rd Election District
2nd Councilmanic District
Bonnie View Country Club, Inc.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-204-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as both a Petition for Special Hearing and Petition for Zoning Variance. As to the Petition for Special Hearing, the Petitioner seeks an amendment of the Special Exception granted in case No. 88-56-XSPHA to include a 3,900 (+/-) sq. ft. addition to the dining area, and to determine that the parking calculations, as shown on the Plat accompanying the Petition, are proper. As to the Petition for Zoning Variance, the Petitioner seeks relief from Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 358 existing parking spaces in lieu of the required 473 spaces.

The Petitioner, Bonnie View Country Club, Inc., by its President, Samuel Blibaum, appeared, testified and was represented by Julius W. Lichter, Esquire and Kathryn Turner, Esquire. Also appearing on behalf of the Petition was James Grammar, a Professional Engineer from McGee and Associates, David Mayhew, the Architect for the proposed improvements, and Lee N. Sachs. There were no Protestants present.

Testimony presented was that the Petitioner owns approximately 163 acres (+/-) which are shown on the site plan as parcels 1 and 2. The parcels are transected by Smith Avenue and parcel 1 straddles the Baltimore

City/Baltimore County line. Since, at least, 1932, there has been in existence a golf club on the site, known as the Bonnie View Country Club, Inc. This is a private club in which there are approximately 475 family members. The property is improved currently with an existing 18 hole golf course, a club house, tennis courts, a pool and related amenities.

The zoning history of this tract is significant. Within case No. 88-56-XSPHA, the Zoning Commissioner granted a special exception for use of the subject property as a country club/golf course, housing a club house and a number of then existing and similar ancillary facilities and buildings. Further, a special hearing for the nonconforming use was granted and a variance permitting 367 parking spaces, in lieu of the required 443 spaces, was also approved.

Presently, the Petitioner proposes to expand the existing club house. Although the building footprint size will remain the same, there is proposed an addition to the upper level over top of the existing deck. Further, the Petitioner testified that, although there were no definitive regulations to compute the necessary parking, they have employed a combined uses approach to determine the amount required. By combining all of the separate and distinct uses which are on site, they have determined that 473 parking spaces would be required. The variance requested, in order to permit parking as shown on the plat, indicates that 358 spaces are provided.

The Petitioner argues that the variance should be granted for a number of reasons. First, there is no planned expansion to the membership of the facility. That is, although the clubhouse would be enlarged, the Petitioner's club is a closed membership and there are no plans to expand the number of families who are currently members. Thus, the proposed improvements

are not being constructed to enlarge the number of people being served; only the area of service.

Secondly, the Petitioner notes that, with the lengthy history of this site, they have been able to properly gauge the need for parking spaces. They also note that all of the spaces are never utilized in any single time, in that all of the separate amenities are not operated to capacity at anyone time. For example, the peak times for the golf course are quite different than those for the clubhouse.

Lastly, Mr. Grammar, the Engineer for the site, noted that practical difficulty would result if additional spaces need be installed. In that scenario, it would be necessary to redesign and reconfigure the existing course. As noted, the course has been in place for many years.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 29 day of January, 1992, that the Petition for Special Hearing seeking an amendment of the Special Exception granted in case No. 88-56-XSPHA, to include a 3,900 (+/-) sq. ft. addition to the dining area; and to determine that the parking calculations as shown on the Plat accompanying the Petition are acceptable, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Zoning Variance seeking relief from Section 409.6 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 358 existing parking spaces, in lieu of the required 473, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this

Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

IT IS FURTHER ORDERED that all prior zoning Orders and restrictions pertaining to the subject property shall be incorporated herein as if set forth in their entirety, and shall be given the full force and effect of law except where inconsistent herewith.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

LES:mmm

ORDER RECEIVED FOR FILING
Date 1/7/92
By M. Blibaum

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

January 6, 1992

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Petitions for Special Hearing and Zoning Variance
Case No. 92-204-SPHA
Bonnie View Country Club, Inc., Petitioner

Dear Mr. Lichter:

Enclosed please find the decision rendered in the above captioned case. The Petitions for Special Hearing and Zoning Variance have been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmm

att.
cc: James Grammar
David Mayhew
Samuel Blibaum
Lee N. Sachs



Petition for Variance

to the Zoning Commissioner of Baltimore County

92-204-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.6 to permit 358 existing parking spaces in lieu of the required 473.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)
due to the size, shape, and existing improvement of the site and for additional reasons, as will be presented at the public hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Julius W. Lichter, Esquire

(Type or Print Name)

305 W. Chesapeake Avenue #113

Towson, Maryland 21204

City and State

Attorney's Telephone No.: (301) 321-0600

Legal Owner(s):

Bonnie View Country Club, Inc.

(Type or Print Name)

Signature

Address

City and State

2201 Smith Avenue

Baltimore, Maryland 21209

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Julius W. Lichter, Esquire

305 W. Chesapeake Ave. #113

Towson, MD 21204 (301) 321-0600

Address Phone No.

ESTIMATED LENGTH OF HEARING - 1/2HR. <1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER DATE 10/25/91

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County 92-204-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 507.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve to amend the special exception granted in Case 88-56-XSPHA to include a 3,200+ square foot addition to the dining area; to determine that the parking calculations as shown on the accompanying

Property is to be posted and advertised as prescribed by Zoning Regulations. plat are acceptable.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Julius W. Lichter, Esquire

(Type or Print Name)

305 W. Chesapeake Ave. #113

Towson, Maryland 21204

City and State

Attorney's Telephone No.: (301) 321-0600

Legal Owner(s):

Bonnie View Country Club, Inc.

(Type or Print Name)

Signature

Address

City and State

2201 Smith Avenue

Baltimore, Maryland 21209

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Julius W. Lichter, Esquire

305 W. Chesapeake Ave. #113

Towson, MD 21204 (301) 321-0600

Address Phone No.



ESTIMATED LENGTH OF HEARING - 1/2HR. <1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER DATE 10/25/91

DESCRIPTION OF
BONNIE VIEW COUNTRY CLUB
THIRD ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Parcel One

Beginning for the same at the centerline intersection of Smith Avenue (66.00 feet wide) and Edenvale Road (50.00 feet wide), thence running North 86° 01' 40" East 1226.52 feet, thence South 3° 58' 20" East 68.60 feet, thence South 88° 23' East 150.3 feet, thence North 3° 58' 20" West 77.31 feet, thence Easterly 83 feet, thence Southerly 82 feet, thence North 89° 23' East 456.21 feet, thence South 2° 59' 13" West 1656.14 feet, thence North 51° 21' 20" West 581.79 feet, thence North 83° 05' 10" West 519.68 feet, thence South 0° 42' East 961.00 feet, thence South 88° 02' 35" West 1073.45 feet, thence North 5° 18' 25" East 2210.82 feet to the point of beginning. Containing 81.41 acres more or less.

Parcel Two

Beginning for the same at a point situated 1320.00 feet more or less northeasterly from Edenvale Road, at the center of Smith Avenue 66.00 feet wide, thence running North 04° 01' East 380.00 feet, thence North 03° 38' East 1202.00 feet, thence North 83° 45' West 810.00 feet, thence South 01° 45' West 256.00 feet, thence North 88° 45' West 24.75 feet, thence North 88° 45' West 928.75 feet, thence South 36° 21' East 242.00 feet, thence South 53° 38' West 720.00 feet, thence North 0° 07' West 428.9 feet, thence South 01° 15' West 350.00 feet, thence South 88° 45' East 300.00 feet, thence South 01° 15' West 75.00, thence South 88° 45' East 75.00 feet, South 01° 15' West 75.00 feet to the center of Smith Avenue, thence binding on the centerline South 87° 21' East

#210
92-204.SPHA

Description of Bonnie View Country Club
Page Two

295.00 feet, thence South 85° 59' East 330.00 feet, thence South 88° 29' East 360.00 feet, thence South 88° 14' East 446.00 feet, thence leaving said centerline of Smith Avenue and running North 01° 15' East 470.00 feet, thence South 88° 45' East 316.00 feet, thence South 04° 01' West 216.00 feet, thence South 06° 05' West 262.00 feet to the centerline of Smith Avenue, thence South 88° 14' East 50.00 feet to the point of beginning, containing 81.5 acres more or less.

The above parcels being known as #2201 Smith Avenue.



92-204.SPHA

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 3rd Date of Posting: November 23, 1991
Posted for: Special Hearing and Variance
Petitioner: Bonnie View Country Club, Inc.
Location of property: S/S Smith Avenue, 25' E of c/l Edenvale Road
2.201 Smith Avenue
Location of Signs: Smith Avenue approx. 100' East of Edenvale Road
Remarks: _____
Posted by: S.J. Hester Date of return: December 2, 1991
Number of Signs: 2

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on November 21, 1991.

CATONSVILLE TIMES

S. Zeke Nelson
Publisher

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
Case Number: 92-204-SPHA
S/S Smith Avenue, 25' E of c/l Edenvale Road
2.201 Smith Avenue
3rd Election District
2nd Councilmanic District
Petitioner(s): Bonnie View Country Club, Inc.
Hearing Date: Wednesday, December 11, 1991 at 11:00 a.m.
Special Hearing: to amend the special exception granted in Case #88-56-SPHA to include a 3,900 (+/-) square foot addition to the dining area; to determine that the parking calculations as shown on the plat are acceptable; Variance to permit 358 existing parking spaces in lieu of the required 475.
LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
CU11922 November 21.

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 11/26/91

Bonnie View Country Club, Inc.
2201 Smith Avenue
Baltimore, Maryland 21209

RE:
CASE NUMBER: 92-204-SPHA
S/S Smith Avenue, 25' E of c/l Edenvale Road
2201 Smith Avenue
3rd Election District - 2nd Councilmanic District
Petitioner(s): Bonnie View Country Club, Inc.

Dear Petitioner(s):

Please be advised that \$ 118.03 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 118, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

Bel Jahn

ARWOLD JARLAN
DIRECTOR

cc: Julius W. Lichter, Esq.

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

NOVEMBER 16, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 92-204-SPHA
S/S Smith Avenue, 25' E of c/l Edenvale Road
2201 Smith Avenue
3rd Election District - 2nd Councilmanic District
Petitioner(s): Bonnie View Country Club, Inc.
HEARING: WEDNESDAY, DECEMBER 11, 1991 at 11:00 a.m.

Special Hearing to amend the special exception granted in Case #88-56-SPHA to include a 3,900 (+/-) square foot addition to the dining area; to determine that the parking calculations as shown on the plat are acceptable.
Variance to permit 358 existing parking spaces in lieu of the required 475.

LAWRENCE E. SCHMIDT
LAWRENCE E. SCHMIDT

Zoning Commissioner of
Baltimore County

cc: Bonnie View Country Club, Inc.
Julius W. Lichter, Esq.

111 West Chesapeake Avenue
Towson, MD 21204

December 2, 1991

(410) 887-3353

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue, Suite 113
Towson, MD 21204

RE: Item No. 210, Case No. 92-204-SPHA
Petitioner: Bonnie View Country Club
Petition for Special Hearing and
Zoning Variance

Dear Mr. Lichter:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to, the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

CERTIFICATE OF PUBLICATION

TOWSON, MD., Nov 21, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 21, 1991.

THE JEFFERSONIAN,

S. Zeke Nelson
Publisher

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
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S/S Smith Avenue, 25' E of c/l Edenvale Road
2201 Smith Avenue
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2nd Councilmanic District
Petitioner(s): Bonnie View Country Club, Inc.
Hearing Date: Wednesday, December 11, 1991 at 11:00 a.m.
Special Hearing: to amend the special exception granted in Case #88-56-SPHA to include a 3,900 (+/-) square foot addition to the dining area; to determine that the parking calculations as shown on the plat are acceptable; Variance to permit 358 existing parking spaces in lieu of the required 475.
LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
CU11922 November 21.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

92-204

Account: R 001-6150
Number

Cashier Validation

Please Make Checks Payable To: Baltimore County

Zoning Plans Advisory Committee Comments
Date: December 2, 1991
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,

JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Samuel Blibaum
Bonnie View Country Club, Inc.
2201 Smith Avenue
Baltimore, MD 21209

305 W. CHEROKEE AVE. 21204
305 W. CHEROKEE AVE. 21204
5 SHAWAN ROAD 21030
~~115~~ 571 519 W. PRATT ST. 21201
341 N. CALVERT ST. 21202
341 N. CALVERT ST 21202

